

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Richard Hamilton,
Petitioner

v.

Case No. 1:12-cv-124

Warden, Chillicothe Correctional
Institution,
Respondent

ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation filed June 17, 2013 (Doc. 11).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). As of the date of this Order, no objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, we find the Magistrate Judge's Report and Recommendation correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Petitioner's petition for writ of habeas corpus is **DISMISSED** without prejudice.

A certificate of appealability will not issue under the standard set forth in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), because "jurists of reason" would not find it debatable as to whether this Court is correct in its procedural ruling that petitioner has failed to exhaust state court remedies and that this case is dismissed without prejudice pending his exhaustion of such remedies.

This Court certifies that pursuant to 28 U.S.C. § 1915(a)(3) an appeal of this Order would not be taken in good faith, and therefore **DENIES** petitioner leave to appeal *in forma pauperis*. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

Date: July 10, 2013

s/Sandra S. Beckwith
Sandra S. Beckwith, Senior Judge
United States District Court